

Hoopa Tribal Department of Commerce

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Hoopa Valley Tribe Moves beyond Self-Governance to Create Business Environment

By Daniel Jordan

In recent years, there has been a growing mystery surrounding business development on American Indian Reservations. There is an unfortunate and widespread lack of knowledge about tribal sovereign powers, sovereign immunity, federal/state/county jurisdictional authorities, trust land lease procedures and the application of commonly accepted business principles as they relate to Reservation businesses. These uncertainties have contributed to an overall lack of interest by businesses, which would otherwise be willing to locate on reservations.

The Hoopa Valley Tribe, in northern California, has incorporated broad visions and goals that go far beyond its negotiated compact agreements with the BIA, IHS and other Department of the Interior programs. For Hoopa, our daily Self-Governance agenda includes a dedicated effort that its inherent sovereign powers, resources, budgets and expertise, will be equally applied to creating a sound environment for attracting business and job opportunities to our Reservation.

Duane Sherman, Jr., a previous Tribal Chairman for the Tribe, has stated, "it is not enough for us to flex our sovereignty muscle by assuming control over programs that we previously operated by federal agencies, we must also empower our Indian people so that they don't have to solely depend on either the federal or tribal governments for their needs."

The Hoopa Tribe has taken a major step toward accomplishing this goal by developing and enacting its Tribal Comprehensive Business Codes in 1998. The term "comprehensive" is included in the title of the Hoopa Tribe's Business Codes for a reason- to provide the broad infrastructure and framework under Tribal law that is needed by any business to be successful.

Former Chairman Sherman says that any business must have three fundamental parts to work, regardless of how strong its business plan may be. These parts are: 1) a solid legal foundation upon which to operate, 2) land upon which to locate the business, and 3) capital funds to finance its startup and operations. These fundamental components were simply lacking within the Reservation before the Hoopa Tribe enacted its Business Codes. Before the Business Codes, we did not have procedures for issuing business licenses, issuing commercial land leases, or establishing private corporations and partnerships. With the enactment of the Business Codes, we now can tell an outside business what to expect if it were to locate on the Reservation.

The Business Codes include eleven sections, which set for Tribal laws and policies such things as Tribal and private sector development, the administrative structure and authority to ensure that the Business Codes will be successfully implemented, provisions for establishing Tribal and private for profit, non-profit corporations and partnership businesses, issuing Business Licenses, commercial transactions enforcement procedures, and procedures for obtaining a commercial lease of Tribal lands. A major part of the Hoopa Tribe's laws is the Commercial Transactions Code.

Using the University of Montana's model code with various revisions to address Hoopa specific needs, we can now enforce commercial contracts in Tribal Court, which in turn raises the comfort level of businesses

that could not otherwise use California law because the State does not have jurisdiction to regulate business activities on the Reservation.

The Tribe designated its Self-Governance Office as the department responsible for implementing its Comprehensive Business Codes. We have issued eight Articles of Incorporation and/or Business Licenses (usually both) to Reservation-based businesses. Once we began implementing the Business Codes, we found that the Reservation's business environment was quickly transformed from one that was typically full of questions about what jurisdiction applies, to whom, and when, to an environment where the Reservation has become one of the only places where businesses can come to and be sheltered from California's over bearing laws and expensive business taxes. Coupled with the technical resources and expertise that we have acquired through resources, we are able to assist business interests in nearly any area in which that they may need help.

Former Chairman Sherman said that the Business Codes have also become the vehicle to improve the Tribe's working relationship with the State of California. Almost no one in the State has ever been confronted with the situation where an Indian tribe has enacted Business Codes and is incorporating businesses and issuing business license under the separate and completely legal sovereign authority of an Indian tribe.

He says that controversy over gaming issues has helped to educate State officials about the nature of tribal sovereign powers and says that he has found State officials to be very willing to work with the Tribe to address such issues as how State and tribal authority applies to the sale of Reservation-made products in outside markets. There are even comments that perhaps a Tribal/State Business Compact could result in developing a "how to" book on how to develop business on Indian reservations. While we remain cautious about our negotiations with the State, we are also optimistic since the foundation upon which their negotiations are based is the exercise of Tribal sovereign powers-which only the Tribe can apply.